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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed August 26, 2005.

Claims 1 and 5-8 are pending. Claims 14-30 were previously withdrawn. Claims 2-4, 9-13, 31, and 32 were previously cancelled. Claims 1 and 5 are amended to correct informalities.

Applicants traverse all of the rejections in the Office Action and respectfully request reconsideration and passage of the claims to allowance for the following reasons.

Objections traversed for claims 1 and 5-8

The Office Action objected to claims 1 and 5-8 for informalities. Applicants traverse this objection by amending claims 1 and 5.

Claims 1 and 5-8 patentable over Eyal/Hunter under §103

The Office Action rejected claims 1 5, and 6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,484,199 to Eyal ("Eyal") in view of U.S. Patent No. 6,647,417 to Hunter et al. ("Hunter").

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP §2143, Basic Requirements of a Prima Facie Case of Obviousness.

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Eyal and Hunter fails to teach or suggest all the claim elements. For

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example, the combination of Eyal and Hunter fails to teach or suggest the claimed content server that calculates a hotness rating for each streaming multimedia (SM) object, where the hotness rating is the sum of helper hotness ratings, i.e., the local demand at each helper server (HS).

Claim 1 recites, *inter alia*, "calculating, at a content server that is hosting a plurality of SM objects, a server hotness rating for each SM object, said content server being connected to a plurality of helper server (HSs) in a network, each server hotness rating being a sum of helper hotness ratings over said HSs, each helper hotness rating being a local measure of client demand for each SM object". The combination of Eyal and Hunter fails to teach or suggest at least this element.

By contrast, Eyal discloses a "rating from the user" that is "updated" with "an average-based formula" that is a weighted average of user ratings. (Eyal, col. 30, lines 31-65). The rating in Eyal is discloses as either "extracted from each media link" and added to the "back-end database management system 245" or added by the "editor interface module 275". Thus, the rating of Eyal is not the same as the claimed hotness rating that is the sum of helper hotness ratings, because, in Eyal, there is only one "back-end database management system 245" and only one "editor interface module 275", while in the claimed invention, a plurality of helper servers determine local demand that is summed into the claimed hotness rating.

Similarly, Hunter's "tiers of transmission frequency" are based on demographic information, "standard customer profiles", and "customer preference information" that are determined by only one "central controller 36". (Hunter, col. 9, lines 25-65; col. 12, lines 10-29; col. 13, lines 3-33). Thus, the "tiers" of Hunter are not the same as the claimed hotness rating that is the sum of helper hotness ratings, because, in Eyal, there is only one "central controller", while in the claimed invention, a plurality of helper servers determine local demand that is summed into the claimed hotness rating.

Therefore, claim 1 is patentable over the combination of Eyal and Hunter under §103.

Claim 5 recites, *inter alia*, "calculating, at a helper server (HS), a helper hotness rating for each of a plurality of SM objects hosted at a content server, said helper

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hotness rating being a local measure of client demand for each SM object". For the same reasons given above with respect to claim 1, claim 5 is also patentable over the combination of Eyal and Hunter under §103.

Claim 6 depends from claim 5 and, thus, inherits the patentable subject matter of claim 5, while further defining and/or adding additional elements. Therefore, claim 6 is also patentable over the combination of Eyal and Hunter under §103.

The Office Action rejected claims 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Eyal Hunter as applied to claim 5, and in further view of Saxenz et al. Claims 7 and 8 depends from claim 5 and, thus, inherit the patentable subject matter of claim 5, while further defining and/or adding additional elements. Therefore, claims 7 and 8 are also patentable over the combination of Eyal and Hunter under §103. Furthermore, Saxenz also fails to teach or suggest the claimed content server that calculates a hotness rating for each streaming multimedia (SM) object, where the hotness rating is the sum of helper hotness ratings, i.e., the local demand at each helper server (HS). Therefore, claims 7 and 8 are also patentable over the combination of Eyal, Hunter, and Saxenz.
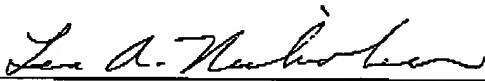
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CONCLUSION

Thus, Applicants respectfully request reconsideration and passage to issue.

If, however, the Examiner believes that there are any unresolved issues requiring any adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Lea Nicholson or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: ___11/28/05___

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